

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SALLY TOMON,

Plaintiff,

-against-

3:05-CV-1157
(LEK/GJD)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on June 20, 2008, by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 13).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge DiBianco's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 13) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

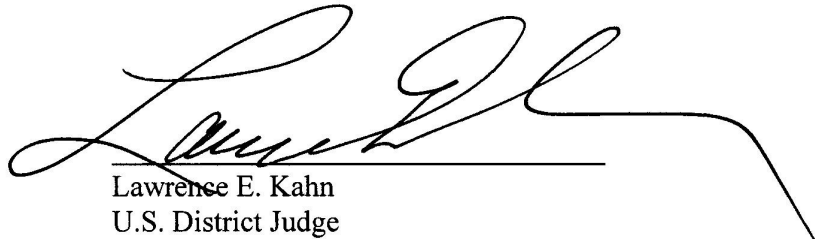
ORDERED, that the decision of the Commissioner is **REVERSED** and this case

REMANDED for further proceedings, based on Sentence Four of 42 U.S.C. § 405(g); and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: August 04, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge